

NOT VOTING—5.

Buchanan of Grimes, Duncan, Terrell.
Buchanan of Wood, Powers,

Senator Ross offered the following amendment: Amend by inserting the following:

To pay W. D. Thompson for pension as a soldier in Capt. Crain's company in 1835, \$970.

Adopted.

Senator Burges offered the following amendment:

For payment of the following certificates of indebtedness issued by Governor Sam Houston to Peter Tumlinson for military services rendered by him and others for payment in A. D. 1860, viz.: No. 268 for \$22.35; No. 275 for \$16.93; No. 267 for \$9.65; No. 263 for \$11.82; No. — for \$23.25; total, \$84, interest from date, \$158; aggregate, \$252.

Senator Martin of Cooke moved that the bill and pending amendment be referred to the Committee on Finance. Adopted.

Senator Davenport introduced a bill entitled "An act for the relief of Roden T. Crain." Read by caption and referred to the Committee on Private Land Claims.

On motion of Senator Homan, Capt. C. M. Boynton, Second Assistant Secretary of the Senate was excused on account of sickness.

The President, after reading their captions, signed the following bills:

House bill No. 33, "An act to amend article 4752, title 95, of chapter 4, of the Revised Statutes of the State of Texas."

House bill No. 217, entitled "An act to validate certain notarial acts in the State of Texas."

House bill No. 266, entitled "An act to authorize the Commissioner of the General Land Office to approve the bounty land warrant for 1920 acres of land issued on the twenty-fifth day of November, 1846, by Wm. G. Cook, Adjutant-General, to the heirs of Wm. N. French."

House bill No. 576, "An act to provide for the change of time of holding the terms of the District Court of Gonzales county."

And House bill No. 570, entitled "An act to authorize and empower the Treasurer, with the advice and consent of the Governor and Comptroller, to use surplus moneys that may be at any time in the State Treasury belonging to the general fund for the purchase and retirement of outstanding bonds of the State."

On motion of Senator Burges, the Senate adjourned until 9:30 A. M. to-morrow.

FIFTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, March 18, 1881. }

Senate met pursuant to adjournment; the President in the chair.

Roll called; quorum present.

Prayer by the Chaplain.

On motion of Senator Homan, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Terrell, chairman of Judiciary Committee No. 1, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 18, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 276 have considered the same, and instruct me to recommend its passage. The bill proposes to supply a needed provision of the law relating to the burial of paupers.

TERRELL, Chairman.

Bill read first time.

Senator Lair, chairman of Committee on Private Land Claims, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 18, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Private Land Claims have carefully examined Senate bill No. 279, "for the relief of Roden T. Crain," and instruct me to report it back with the recommendation that it do pass.

LAIR, Chairman.

Bill read first time.

Senator Lane, chairman of Committee on Finance, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 17, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Finance have had under consideration House bill No. 566, entitled "An act making appropriations for deficiencies beginning March 1, 1879, and ending February 28, 1881, and for previous years," with amendments of your Finance Committee and of the Senate thereto, and the committee unanimously instruct me to report the same back to the Senate with the accompanying amendments, and, as amended, to recommend that it do pass.

COMMITTEE AMENDMENTS.

Strike out lines 19, 20, 21 and 22, on page 2, of the original printed House bill.

Insert lines 3, 4 and 5, on page 3, of the original House bill, as follows: "To pay J. G. Hamilton for carrying a prisoner, charged with felony, adjudged insane, to Lunatic Asylum, from Delta county, in 1874, \$162.50.

Strike out appropriation on lines 25, 26, 27, 28 and 29, on page 3, of original printed House bill.

Strike out of the committee amendments as follows: Lines 11, 12 and 19, on page 5, of printed bill.

Strike out lines 20, 21 and 22, on page 6, of printed bill.

Strike out each and all of the amendments made by the Senate making or increasing an appropriation.

The committee recognize fully that the several claims hereby rejected, with many others brought to the consideration of the committee, are not wanting in merit, but that it is the deliberate opinion of the committee that its legitimate province is to make an appropriation for deficiencies in the current expenses of the government, which have been passed upon by the Comptroller of Public Accounts, audited and registered by him and reported to the Legislature in conformity to an act of the Sixteenth Legislature, approved July 9, 1879, which is as follows:

Section 1. *Be it enacted by the Legislature of the State of Texas, That* all sheriffs, attorneys, and all other parties holding claims against the State of Texas, for which no warrants have been issued, and the appropriation for which has been exhausted, shall present the same to the Comptroller of the State of Texas, for his consideration, at least thirty days before the meeting of each regular session of the Legislature of the State of Texas.

Sec. 2. The Comptroller of the State of Texas is authorized and directed to audit no claims against the State not presented in the time prescribed in section 1 of this act, until all claims presented prior to that time have been considered and passed upon by him.

Sec. 3. The Comptroller of the State of Texas, shall keep a book for the purpose of registering and indexing all audited claims against the State, and on the meeting of the regular session of the Legislature, shall make a minute report of the same to the two houses thereof, giving the names and amounts of all audited claims.

Your committee are of the opinion that all claims not reported by the Comptroller, as provided by this law, are properly the subjects of private special bills, which would involve the necessity of publication of notice of intention to apply to the Legislature for relief; that upon a general appropriation bill for deficiencies, the committee should not be called upon to hear or determine any matter that calls for the exercise of discretion, or to resolve itself into an auditorial board and pass upon private claims, and that all such claims are as they ought to be, when not registered and reported by the auditorial department of the government, subjects for special relief bills.

LANE, Chairman.

Bill read first time with committee amendments.

A message was received from the House announcing the adoption of the report of the committee of free conference on House bill No. 482, "An act to amend articles 4662 and 4664, chapter 1, title 95 of the Revised Statute, adopted February 28, 1879."

Senator Lair introduced a bill, entitled "An act to amend article 1092, chapter 4, title 15, Revised Criminal Code, relating to the fees of county attorneys." Referred to Judiciary Committee No. 1.

Senator Lane moved to take up House bill No. 566, "An

act making appropriations for deficiencies beginning March 1, 1879, and ending February 28, 1881, and for prior years." Adopted by unanimous consent, bill taken up and committee amendments, six in number, adopted.

Senator Henderson offered the following amendment: "Amend under head 'Agricultural and Mechanical College,' on page 3, lines 1 and 2, printed bills, 'C. H.,' so as to make them read 'H. C.,' so that the whole section, as amended, shall read, 'To pay H. C. Edrington for moneys advanced to the A. and M. College \$4,987.44.'" Adopted.

Senator Lane offered the following amendment: Amend by striking out lines 6 and 7 of page 3 of the original House bill. Adopted.

Senator Buchanan of Wood offered the following: In lines 21 and 22, page 3, strike out the following language: "Which shall be a full discharge of all claims proved up within six months." Adopted.

Senator Terrell offered the following amendment: Amend by adding:

Costs adjudged in favor of officers of court, against the State, by the Supreme Court of Texas, in case of George W. Honey vs. B. Graham, in favor of Frank Brown, \$217.70; George B. Zimpleman, \$42 56; A. P. Wooldridge, \$75.

Senator Houston moved the previous question on the amendment. Motion seconded, and main question ordered.

Amendment adopted by the following vote:

YEAS—14.

Buchanan of Grimes	Davenport,	Stubbs,
Buchanan of Wood,	Henderson,	Swain,
Duncan,	Lightfoot,	Terrell,
Burges,	Powers,	Wynne.
Burton,	Rainey,	

NAYS—18.

Cooper,	Houston,	Moore,
Gooch,	Lane,	Patton,
Harris,	Martin of Cooke,	Ross,
Hightower,	Martin of Navarro,	Weatherred.
Homan,		

NOT VOTING.

Lair.

The President, after reading its caption, signed House bill No. 310, "An act to amend chapter 3 of title 15 of an act entitled 'an act to adopt and establish a Penal Code and Code of Criminal Procedure of the State of Texas,' approved February 21, 1879."

Senator Burges entered a motion to reconsider House bill No. 519, "An act to provide for the cancellation of sales of land situated in unorganized counties, in cases where sales have been made in error by the Comptroller, and for the relief of purchasers thereof."

Senator Henderson moved to reconsider the vote adopting the third amendment. Adopted, and vote reconsidered by the following vote:

YEAS—14.

Buchanan of Wood,	Homan,	Rainey,
Burges,	Houston,	Swain,
Burton,	Lightfoot,	Terrell,
Duncan,	Martin of Cooke,	Wynne.
Henderson,	Powers,	

NAYS—8.

Cooper,	Hightower,	Moore,
Gooch,	Lair,	Weatherred.
Harris,	Lane,	

NOT VOTING—6.

Buchanan of Grimes	Martin of Navarro,	Ross,
Davenport,	Patton,	Stubbs.

The amendment was lost by the following vote:

YEAS—9.

Buchanan of Grimes	Hightower,	Patton,
Cooper,	Lair,	Rainey,
Gooch,	Lane,	Weatherred.

NAYS—15.

Buchanan of Wood,	Henderson,	Martin of Navarro,
Burges,	Homan,	Powers,
Burton,	Houston,	Swain,
Duncan,	Lightfoot,	Terrell,
Harris,	Martin of Cooke,	Wynne.

NOT VOTING—4.

Davenport,	Ross,	Stubbs.
Moore,		

Senator Burton offered the following amendment: For services rendered by W. P. Huff, as District Clerk of Fort Bend county, in case of the heirs of John C. Clark vs. The State, \$500.

Senator Houston offered the following as a substitute for Senator Burton's amendment: Substitute for \$500, \$900. Accepted, and amendment adopted.

The following messages were received from the Governor:

THE STATE OF TEXAS, EXECUTIVE OFFICE,
AUSTIN, March 18, 1881.

To the Honorable the Senate of the State of Texas:

I herewith send to your honorable body, for confirmation, the following additional names for the office of notaries public:

William Opperman, new appointment, Baylor county.
J. O. Dunlap, new appointment, Knox county.
A. Jeffries, new appointment, Washington county.
A. J. Thomas, new appointment, Robertson county.
J. M. B. McKnight, new appointment, Cherokee county.
E. McAshan, to succeed J. J. McKeever, Harris county.

Respectfully submitted,

O. M. ROBERTS, Governor.

THE STATE OF TEXAS, EXECUTIVE OFFICE,
March 17, 1881.

To the Honorable Senate and House of Representatives in the Legislature assembled:

I respectfully submit to your honorable bodies the communication of the Hon. E. M. Pease, ex-Governor of the State, in regard to the portraits of William H. Wharton and John A. Wharton, distinguished men of the Texas Revolution of 1836, together with biographies of them. These portraits are presented to the State of Texas by Mr. Wm. Wharton Groce, and are now deposited in the Executive office for the acceptance by the Legislature, which I trust will be done.

Respectfully submitted,

O. M. ROBERTS, Governor.

AUSTIN, TEXAS, March 14, 1881.

To His Excellency O. M. Roberts, Governor:

Sir—I beg leave, in behalf of Mr. Wm. Wharton Groce, to present through you, to the State of Texas, portraits of William H. Wharton and John A. Wharton.

These gentlemen were brothers, and immigrated to Texas in her colonial days. They acted a prominent part and exercised a large influence in public affairs previous to and during our revolution. Neither of them have any surviving descendants, and it would seem to be appropriate that their portraits should become the property of the State, in the achievement of whose independence, they, in common with Austin, Houston, and others, performed an important part, and that they should adorn the walls of her Capitol.

Forty-two years have passed away since the death of these gentlemen, and as few now, in active life, are familiar with their history, I have thought it proper to accompany this letter with biographical sketches of their career.

With respect, your obedient servant,

E. M. PEASE.

William H. Wharton was born in Albemarle county, Virginia, in the year 1805. His parents removed to Nashville, Tennessee, while he was a child, where he was brought up and received a liberal education. He studied law and was admitted to the bar in 1826.

In 1828 he visited Texas for the benefit of his health, which had suffered from severe application to study; while here he became acquainted with Miss Sarah Ann Groce, the only daughter of Colonel Jared E. Groce, who was one of the first settlers on the Brazos river, in Austin's Colony. After a few months' courtship they were married, and he returned with his wife to Nashville, and resumed the practice of his profession.

In the early part of 1831 he immigrated to Texas with his family, and opened a plantation on Oyster Creek, a few miles above its mouth, in what is now Brazoria county. His plantation was called Eagle Island, and was seldom without visitors, who always received a hearty welcome from him and his accomplished wife, and found it difficult to tear themselves away from its charms. Here, when not engaged in public affairs, his time was devoted to his planting in-

terests and the enjoyment of a choice and well selected library, such as few possessed in Texas at that early day.

He was an easy and graceful writer and a ready and eloquent speaker. He was an active participant in the battle of Velasco, in 1832; and represented the municipality of Brazoria in the convention that met at San Felipe in 1833, to adopt a Constitution of Texas separate from Coahuila, of which body he was elected president.

He took an active part in the discussions that preceded the commencement of hostilities with Mexico in 1835, and was a member of the volunteer army that assembled before San Antonio under General Stephen F. Austin, where he remained until selected by the consultation, with Archer and Austin as commissioners, to visit the United States and solicit aid from her citizens in protecting Texas from hostile invasion.

These commissioners proceeded to New Orleans in the latter part of December, 1835, where they succeeded in obtaining a loan of money and the aid of prominent citizens, who interested themselves in forwarding the arms, munitions of war and other supplies that enabled Houston and his army to keep the field and fight the battle of San Jacinto.

They visited all the principal cities in the United States, from New Orleans to New York, and by their writing and speeches and personal influence aroused an enthusiasm in favor of our cause, which brought us voluntary aid of men and means that contributed largely to our success. They also visited Washington City and induced the Government of the United States to send Commissioner Moffit to Texas in the summer of 1836, to examine and report upon our condition and ability to maintain our independence as a separate republic. They returned to Texas in June, 1836, and by their influence and advice encouraged the government and the people of Texas in those days of severe trial.

Mr. Wharton was elected Senator from Brazoria county in the first Congress of the Republic of Texas, where his services were important in the organization of the new government, under the constitution.

In the latter part of November, 1836, he was appointed by President Houston the first minister of the Republic of Texas to Washington City, to which place he immediately repaired with his family. Here his commanding abilities and his fine social qualities enabled him to bring Texas into prominence, and contributed much to the recognition of our independence by the United States government, in March, 1837.

Soon after this, he resigned his position. Leaving his family in South Carolina, he came to New Orleans, where he took passage for Texas on our naval vessel, Independence, under the command of Capt. Wheelright, in April, 1837. When off the coast of Texas, about thirty miles from land, the Independence, with a crew of thirty-one men, was attacked by two Mexican brigs of war, the Liberator (having six eighteen pounders and one hundred and forty men,) and the Vincidor del Alamo, (carrying six twelves and one long eighteen pounder, and one hundred men.) After a severe fight, in which the crew of the Independence behaved most gallantly, she was overpowered, and her captain and crew, with Mr. Wharton, were carried, as prisoners, to Matamoros. Here he was confined in the calaboose until some time in the autumn of that year, when, by the aid of some generous citizens of Matamoros—among whom were Reuben M. Potter and James Gourley—he made his escape, and arrived safely in Texas. He was immediately elected to fill a vacancy in the Senate from Brazoria county; to which office he was re-elected at the regular election, in 1838.

Soon after the adjournment of the Third Congress, in February, 1839, he died, suddenly, while on a visit to his brother-in-law, Col. L. W. Groce, in Austin county, at the age of thirty-four years.

He left a surviving wife, and one child—John A. Wharton, Jr.,—then about ten years old; whose training and education became the life-work of his mother.

This gentleman was born in Nashville, Tenn., in 1820. He graduated at Columbia College, South Carolina, with distinction, in 1850, and immediately commenced the study of law. In 1851 he married the daughter of Gen. David Johnson, of South Carolina. Early in 1852 he was admitted to the bar, and began the practice of his profession in Brazoria county. In 1855 he was elected District Attorney of the First Judicial District, and distinguished himself as an able criminal lawyer. He and his partner, Clinton Terry, enjoyed a large and lucrative practice in the counties composing the old First Judicial District.

At the presidential election in November, 1860, he was chosen one of the electors for this State. He also served as a member of the Secession Convention, from Brazoria county, in 1861; and, immediately after its adjournment, raised a company known as the "Terry Rangers."

His subsequent gallant career, as the successor of Col. B. F. Terry in the command of that regiment, and as Major-General in the Con-

federate service, and his unfortunate and untimely death just before the close of the war, are too well known to need recital.

Mrs. Sarah A. Wharton survived her son, his widow and only child, and died in February, 1878.

Texas has had few women who possessed more of the qualities which adorn domestic life, and whose death was mourned by so large a circle of life-long friends. Amidst all her trials, and few have been more severely afflicted, her cheerfulness and resignation, and her fine conversational powers, gave a charm to her society that made her a favorite with all who came within the sphere of her influence.

Colonel John A. Wharton was born in Nashville, Tennessee, in the year 1800, where he was raised and educated. He graduated at the University of Nashville, at the age of nineteen, and immediately commenced the study of law in that city. This was about the time that Gen. Houston resigned the office of governor and left Tennessee under circumstances that caused great excitement against him. Young Wharton was his friend on that occasion, and accompanied him from Nashville to Arkansas. He then went to New Orleans, where he completed the study of his profession and was admitted to the bar. He opened an office in that city, and pursued his profession with success until near the close of the year 1832, when he followed his elder brother, William H. Wharton, to Texas, and entered upon the practice of law at the town of Brazoria, which he continued with signal success during his life.

He was an ardent advocate for the consultation of 1835, and by his eloquent appeals to the people contributed largely to concentrate public sentiment in favor of that measure. He was elected to represent the municipality of Columbia (subsequently changed to Brazoria), in that body. Previous to the time designated for its meeting, hostilities commenced with Mexico, and Col. Wharton repaired to the volunteer army under command of General Austin, where he remained until required to attend the meeting of the consultation at San Felipe, on the third day of November, 1835.

In the deliberations of that body he was a leading member, and strenuously urged an immediate declaration of independence, in which he was overruled by the majority, who finally adopted a declaration in favor of the republican principles of the Constitution of Mexico of 1824, and invited the other citizens of Mexico to unite with Texas in resisting its overthrow by Santa Anna. That declaration was drawn up by Col. Wharton, and while it did not, in terms, express his own opinion, he regarded it as practically involving at no distant period the assertion of absolute independence on the part of Texas, in which he was not mistaken. The clearness of its statement, its earnestness of tone, and its severe simplicity of style, while giving assurance of the sternness of its purpose, furnish at the same time an insight into his habits, both of thought and action.

When Gen. Houston was elected Commander-in-Chief of the armies of Texas, he immediately selected Col. Wharton as Adjutant-General. He remained at San Felipe as a member of the council of Provisional Government, and assisted in passing such ordinances as were needed for the organization of the government and the army, until he was ordered by Gen. Houston to New Orleans, to superintend the purchase of supplies and materials of war. He returned to the country with these in time to meet Gen. Houston with his retreating army at the Colorado. He also brought a considerable reinforcement of volunteers which had been raised at New Orleans.

In the movement of the army from the Colorado to the battlefield of San Jacinto, he was active and untiring in his efforts to give it efficiency, and to inspire it with that confidence and courage which was soon so conspicuously displayed. His courage in that conflict was only less exalted than the mercy he displayed to the vanquished when the "red field was won."

Soon after the battle, seeing that there was no prospect of immediate or early military operations, he obtained leave of absence and returned to Brazoria to look after his own despoiled and scattered property, and especially that of his brother, then absent as Commissioner from Texas to the United States.

In the summer of 1836 he served, for a time, as Secretary of War under President Burnett. He was elected a Representative from Brazoria county to the first Congress of the Republic of Texas, where he exercised a large influence in the organization of the constitutional government. During its adjourned session at Houston, in the summer of 1837, he resigned and went, under the authority of President Houston, to Matamoros, by sea, with a large number of Mexican officers, who had been captured at San Jacinto, to endeavor by an exchange to effect the release of his brother, who was confined then as a prisoner of war. Upon landing at the mouth of the Rio Grande he was immediately arrested and placed in confinement, without being allowed to communicate with his brother. By the aid of friends he effected his escape in a few days, and returned to Texas on the schooner from which he had landed, which was still lying at anchor in the roadstead.

He was elected a Representative to the third Congress from Brazoria, but his health had become so feeble that he took but little part in its deliberations, and died before the close of its first session, in the latter part of the year 1838, at the early age of twenty-nine.

In whatever land John A. Wharton might have been born, upon whatever theatre he might have been called to act, he would have been the foremost in its movements. His organization of mind made him a leader.

A boldness and independence of character, and a scornful intolerance of all duplicity, artifice or evasion, characterized his every act and thought. Upon some single and important issue he might have yielded allegiance to a party, but he never could have been a party man in its sense to-day; it was not in his nature to accept his rule of conduct from others.

He was warm and reliable in his friendships, open and outspoken in his enmities; he struck only in the face. In a word, he was a model of reproachless honor, sincere and just and brave to the last.

"He kept

The whiteness of his soul; and thus men o'er him wept."

The following extracts from the eulogy delivered by President Burnett before both houses of Congress at his funeral show the estimation in which he was held by his cotemporaries:

"The keenest blade on the field of San Jacinto is broken; the brave, the generous, the talented John A. Wharton is no more. His poor remains lie cold and senseless before you, wrapped in the habiliments of the grave, and awaiting your kind offices to convey them to the charnel house appointed to all the living. A braver heart never died. A nobler soul, more deeply imbued with the pure and fervent spirit of patriotism, never passed its tenement of clay to the more genial realms of immortality. He was young in years, and, as it were, at the very threshold of his fame; and still it is a melancholy truth, to which every heart in this assembly will respond in painful accordance, that a mighty man has fallen among us. Many princes of the earth have perished in their prime, surrounded with all the gorgeous splendors of wealth and power, and their country has suffered no damage. But surely it will be engraven on the tablets of our history, that Texas wept when Wharton died.

"Colonel Wharton was among the early immigrants of Texas. Young, active, enterprising, intelligent and endowed with an indomitable spirit of perseverance, he was peculiarly fitted to figure conspicuously in the new and to ordinary minds, the difficult circumstances in which Providence and his own adventurous energies had placed him. In his early sojourn among us, when Texas was but the feeble and neglected nursling of an unkind foster parent, he devoted his time and very precious talents to the practice of the law. Zealously devoted to his profession, he soon attained an eminence beyond his years, and a character for candor, integrity and exemption from the littleness of practical quirks and quibbles that endeared him to all his liberal associates at the bar. His mind was constructed for the highest acquisitions of human knowledge, and in choosing the profession of the law he followed the natural propensity of his great intellect; for there is no business of man that is better adapted to the almost illimitable range of genius or to the severe exercise of judgment than that comprehensive and useful science. I have said his talents were precocious; but I intend a relative precocity, for the ripeness of his mind was just beginning to adorn his adopted country by its rich developments when the precious fruit was nipped by the frost of death, and the majestic plant, whose fragrance had shed a sweet savor of promised blessings on all around, was translated to a more propitious clime, where, I trust in God, it will flourish in immortal bloom.

"The brief time permitted us to linger about his waste and attenuated form is insufficient to recite the testimonials of his gallantry. It is enough to say that he was distinguished on the field of San Jacinto, for there were no recreants there. All had strung their chafed and dauntless spirits to the high resolve of liberty or death, and he who could make himself conspicuous on such a battlefield was something more than hero—a hero among heroes—for never in the annals of war did braver hearts or stouter hands contend for liberty."

On motion of Senator Terrell, the message was referred to the Committee on State Affairs, with accompanying documents, and the same ordered entered on the journal.

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, March 18, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 115, "An act to amend article 2799 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed March 17, 1879;" No. 122, "An act to amend article 577,

chapter 3, title 20, Revised Civil Statutes of the State of Texas;" No. 140, "An act doubling the penalty of all offenses committed in the State of Texas, with a weapon the carrying of which is prohibited by law;" and No. 143, "An act to amend an act entitled 'an act to authorize the Commissioner of the General Land Office to contract for the lithographic printing of maps of the various counties of the State, and to provide for the sale of the same, and to make an appropriation therefor;' and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

COMMITTEE ROOM,
AUSTIN, March 18, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed bills have carefully examined and compared Senate bill No. 180, "An act for the relief of the heirs of Lieutenant Samuel Wilson, deceased, who fell at Fannin's massacre;" No. 137, "An act to amend article 2725, chapter 1, title 68, of the Revised Civil Statutes of the State of Texas," adopted on the twenty-eighth day of February, A. D. 1879; No. 270, "An act to diminish the civil and criminal jurisdiction of the County Courts of De Witt and Walker counties, and to conform the jurisdiction of the district courts of said counties to such change;" No. 123, "An act to amend article 1828, chapter 4, and article 1873, chapter 6, title 37, of the Revised Civil Statutes;" and No. 124, "An act providing for the custody and safe keeping of the Texas reports, statutes, and other law books belonging to the counties in the State;" and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senator Houston moved that the Senate go into executive session, on the Governor's message, to-morrow morning after the morning call. Adopted.

Senator Buchanan of Grimes entered a motion to reconsider the vote adopting the amendment of Senator Terrell to House bill No. 566 (the deficiency bill.)

Senator Powers offered the following amendment: Amend by inserting the sum of \$1152.31 in payment of judgment in favor of Wm. Scanlan, sheriff of Cameron county, as rendered by the District Court of Walker county, on July 24, 1875, being for balance of claim of \$800, with interest thereon for five years and seven months.

Senator Burges moved that the House be requested to return to the Senate House bill No. 519. Adopted.

Senator Duncan moved to adjourn till 3 o'clock p. m. Lost.

A message was received from the House returning, according to request, House bill No. 519, "An act to provide for the cancellation of sales of lands situated in unorganized counties, in cases where sales have been made in error by the Comptroller, and for the relief of purchasers thereof."

Senator Gooch offered the following resolution:

WHEREAS, It appears that, in engrossing the general appropriation bill, in the item of penitentiaries, an error was made; therefore be it

Resolved, That the House be informed of such mistake, and that the accompanying exhibit, marked "Exhibit A," is a correct copy of the item mentioned which passed the Senate.

Adopted.

Senator Duncan moved to adjourn until 9:30 a. m. to-morrow.

Senator Lane raised the point of order that the rules, as amended, required an evening session. Sustained.

Senator Wynne, chairman of Committee on Representative and Senatorial Apportionment, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 18, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Senatorial and Representative Apportionment would beg to submit that there is in the issue of the Statesman of the eighteenth instant a statement of certain members of the House Committee on Apportionment, which might be construed to reflect on Senate committee on same subject. We would state that it was agreed in joint session of House and Senate committees that the Senate committee should make the Senatorial apportionment and that the House committee should make the Representative apportion-

ment, and it was so made, and by an examination of report of Senate committee it will be seen it was so reported in the Senate.

R. M. WYNNE, Chairman,
H. W. LIGHTFOOT,
E. R. LANE,
L. S. ROSS,
A. W. HOUSTON,
J. M. MARTIN,
Senate Committee.
C. L. WURZBACH, Chairman,
House Committee.

On motion of Senator Duncan, Senate adjourned until 3 P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; the President in the chair.

Roll called; quorum present.

Senator Lane moved to excuse Senator Burges for the evening. Adopted.

The following message was received from the Governor:

EXECUTIVE OFFICE,
AUSTIN, March 18, 1881.

To the Honorable Senate in the Legislature assembled:

I respectfully ask your advice and consent to the following appointment:

T. J. Goree to be Superintendent of Penitentiaries, under the penitentiary act of the Legislature, passed and approved during the present session of the Legislature.

Respectfully,

O. M. ROBERTS, Governor.

Senator Buchanan of Wood offered the following resolution:

WHEREAS, It appears that in engrossing the Senate bill on appropriations, under the head of "Educational Department," a mistake was made so that it appears that only \$14,000 per year was appropriated for the support of the Sam Houston Normal Institute for the years ending August 31, 1882, and August 31, 1883, when, in fact, \$18,000 was appropriated for each of said years; therefore, be it
Resolved, That the House be notified of said mistake.

Adopted.

Senator Ross, his name being called in regular order, called up House bill No. 566, deficiency bill, Senator Powers' amendment pending.

On motion of Senator Martin of Navarro, Senator Buchanan of Grimes was excused for the evening, on account of sickness.

Senator Powers moved a call of the Senate on the pending amendment. Call sustained.

Roll called. Absent, Senators Houston, Martin of Cooke, Rainey, Stubbs and Swain.

Pending business went to the table.

On motion of Senator Martin of Navarro, Senator Martin of Cooke was excused on account of sickness by the following vote:

YEAS—21.

Buchanan of Wood,	Henderson,	Moore,
Burton,	Hightower,	Patton,
Cooper,	Homan,	Powers,
Davenport,	Lair,	Ross,
Duncan,	Lane,	Terrell,
Gooch,	Lightfoot,	Weatherred,
Harris,	Martin of Navarro,	Wynne.

NAYS—none.

NOT VOTING—4.

Houston,	Stubbs,	Swain.
Rainey,		

Senator Duncan offered the following amendment:

For sheriff Butler of Smith county, for attendance upon Commission of Appeals at the Tyler term in 1879 and 1880, \$200.

Adopted.

Senator Gooch offered the following amendment: Amend by inserting under the head of "Miscellaneous" the following: "To the widow of W. L. Byrd \$24.80.

Senator Davenport entered a motion to reconsider the votes adopting all the amendments to the deficiency bill, except the committee amendments.

Senator Duncan made the point of order that an omnibus motion to reconsider could not be entered. Overruled.

Senator Gooch's amendment was lost by the following vote:

YEAS—10.

Burton,	Henderson,	Swain,
Duncan,	Powers,	Terrell,
Gooch,	Ross,	Wynne.
Harris,		

NAYS—12.

Cooper,	Lair,	Moore,
Davenport,	Lane,	Patton,
Hightower,	Lightfoot,	Stubbs,
Homan,	Martin of Navarro,	Weatherred.

NOT VOTING—3.

Buchanan of Wood,	Houston,	Rainey.
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Senator Homan entered a motion to reconsider the vote just cast.

Senator Gooch offered the following amendment: Strike out all amendments except those recommended by the Finance Committee.

Senator Duncan raised a point of order that the amendment was out of order, as the object it seeks to accomplish can only be secured by a motion to reconsider the amendments in question, and adopt or reject them by vote. Sustained.

Senator Burton offered the following amendment: Amend Senator Gooch's amendment by striking out "committee" and inserting "Senate." The amendments of Senators Gooch and Burton were both withdrawn.

Senator Buchanan of Wood offered the following amendment: Add under head of "Miscellaneous" the following:

To pay costs in case in District Court of Van Zandt county, Texas, styled T. J. McCord, for the use of the State, vs. J. M. Clower.

The Senate was announced full, and the consideration of Senator Powers' amendment to the pending bill was resumed.

Senator Powers' amendment was passed by the following vote:

YEAS—13.

Buchanan of Wood,	Henderson,	Powers,
Burton,	Homan,	Ross,
Duncan,	Houston,	Swain,
Gooch,	Moore,	Terrell,
Harris,		

NAYS—12.

Cooper,	Lane,	Rainey,
Davenport,	Lightfoot,	Stubbs,
Hightower,	Martin of Navarro,	Weatherred,
Lair,	Patton.	Wynne.

Senator Buchanan's amendment was lost by the following vote:

YEAS—12.

Buchanan of Wood,	Harris,	Ross,
Burton,	Henderson,	Swain,
Duncan,	Houston,	Terrell,
Gooch,	Powers,	Wynne.

NAYS—13.

Cooper,	Lane,	Patton,
Davenport,	Lightfoot,	Rainey,
Hightower,	Martin of Navarro,	Stubbs,
Homan,	Moore,	Weatherred.
Lair,		

Senator Duncan offered the following amendment: For paying officers of Marion county, costs in delinquent tax suits, intisuted under the law of 1873, and in which the costs were adjudged against the State, \$921.06. Lost by the following vote:

YEAS—8.

Buchanan of Wood,	Gooch,	Powers,
Burton,	Henderson,	Swain.
Duncan,	Martin of Navarro,	

NAYS—15.

Cooper,	Lair,	Patton,
Davenport,	Lane,	Rainey,
Harris,	Lightfoot,	Ross,
Hightower,	Martin of Cooke,	Stubbs,
Homan,	Moore,	Weatherred,

NOT VOTING.

Houston,	Terrell.
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Senator Stubbs entered a motion to reconsider the vote just taken.

Senator Moore offered the following amendment: Amend by adding:

To pay Q. J. Nichols for extra labor and expenses in erecting the General Land Office building, such extra work being by direction of the building committee, composed of E. M. Pease, Governor; Jas. H. Raymond, Treasurer; John B. Shaw, Comptroller; and Stephen H. Crosby, Commissioner of General Land Office, \$3,500.

Lost by the following vote:

YEAS—11.

Buchanan of Wood,	Harris,	Ross,
Burton,	Houston,	Swain,
Duncan,	Moore,	Wynne.
Gooch,	Powers,	

NAYS—13.

Cooper,	Lane,	Patton,
Davenport,	Lightfoot,	Rainey,
Hightower,	Martin of Cooke,	Stubbs,
Homan,	Martin of Navarro,	Weatherred.
Lair,		

NOT VOTING.

Terrell,

Senator Swain offered the following amendment: Amend Comptroller's department by adding the following:

To pay district clerks' and sheriffs' cost in suits against delinquent tax-payers under act of 1873, claim to be audited by the Comptroller, \$5,000.

Adopted.

Senator Buchanan of Wood offered the following amendment: Add under the head of "Miscellaneous" the following:

To pay costs in case in District Court of Van Zandt county, styled T. J. McCord, for the use of the State, vs. J. M. Clower, \$47.00.

Adopted.

Senator Harris offered the following amendment:

For paying claim of J. M. Kiser, for conveying prisoner to the penitentiary at Huntsville, in the year 1868, \$101.00.

Adopted.

Senator Rainey offered the following amendment:

To Loving & Maxwell, to material and labor in repairing injuries to State capitol in 1877, caused by storm, \$35.60.

Adopted.

Senator Ross offered the following amendment: Amend by inserting:

To pay W. O. Thomason, as a pension for service rendered in Capt. Crain's company in 1825, \$970.

Adopted by the following vote:

YEAS—13.

Buchanan of Wood,	Homan,	Ross,
Burton,	Lair,	Swain,
Davenport,	Martin of Cooke,	Terrell,
Harris,	Martin of Navarro,	Wynne.
Henderson,		

NAYS—11.

Cooper,	Lane,	Rainey,
Gooch,	Moore,	Stubbs,
Hightower,	Patton,	Weatherred.
Houston,	Powers,	

Senator Rainey moved to adjourn till 9:30 A. M. to-morrow. Lost.

Senator Houston offered the following amendment:

To pay certificates of indebtedness issued for military services rendered the State in the year 1860, after the claim has been passed upon and correctly audited by a board composed of the Comptroller, the Treasurer of the State and the Attorney-General, \$1000

Senator Martin of Cooke offered the following amendment to Senator Houston's amendment: Amend by inserting after 1860 the words "and from 1861 to 1865, inclusive."

Senator Powers moved that the amendment of Senator Martin of Cooke lie on the table. Lost.

Senator Houston's amendment was adopted.

Senator Lane offered a substitute for bill and amendment.

Senator Martin of Cooke moved the previous question on the substitute and the bill. Motion seconded, and main question ordered.

Substitute adopted by the following vote:

YEAS—20.

Cooper,	Houston,	Patton,
Davenport,	Lair,	Rainey,
Gooch,	Lane,	Ross,
Harris,	Lightfoot,	Stubbs,
Henderson,	Martin of Cooke,	Weatherred,
Hightower,	Martin of Navarro,	Wynne.
Homan,	Moore,	

NAYS—5.

Buchanan of Wood,	Powers,	Terrell.
Burton,	Swain,	

NOT VOTING.

Duncan.

Bill passed to third reading.

Senator Swain moved to adjourn till 9:30 A. M., to-morrow. Lost.

On motion of Senator Lane, the rules were suspended to place the bill on its third reading by the following vote:

YEAS—23.

Buchanan of Wood,	Homan,	Patton,
Burton,	Houston,	Rainey,
Cooper,	Lair,	Ross,
Davenport,	Lane,	Stubbs,
Gooch,	Lightfoot,	Terrell,
Harris,	Martin of Cooke,	Weatherred,
Henderson,	Martin of Navarro,	Wynne.
Hightower,	Moore,	

NAYS—2.

Powers,	Swain.
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NOT VOTING

Duncan.

Bill read third time.

Senator Houston moved the previous question on the passage of the bill. Motion seconded and main question ordered.

Bill passed by the following vote:

YEAS—22.

Buchanan of Wood,	Houston,	Patton,
Cooper,	Lair,	Rainey,
Davenport,	Lane,	Ross,
Gooch,	Lightfoot,	Stubbs,
Harris,	Martin of Cooke,	Terrell,
Henderson,	Martin of Navarro,	Weatherred,
Hightower,	Moore,	Wynne.
Homan,		

NAYS—3.

Burton,	Powers,	Swain.
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NOT VOTING.

Duncan.

Senator Lane moved to reconsider the vote just taken,

and to lay that motion on the table. Adopted by the following vote :

NAYS—20.

Buchanan of Wood,	Hightower,	Martin of Navarro,
Burton,	Homan,	Moore,
Cooper,	Houston,	Rainey,
Davenport,	Lair,	Ross,
Gooch,	Lane,	Weathered,
Harris,	Lightfoot,	Wynne.
Henderson,	Martin of Cooke,	

NAYS—5.

Patton,	Stubbs,	Terrell.
Powers,	Swain,	

NOT VOTING.
Duncan.

Senators Terrell, Homan and Swain gave notice that they would enter their reasons for their votes on the passage etc., of House bill No. 566 (the deficiency bill.)

On motion of Senator Martin of Cooke, the Senate adjourned until 9:30 A. M. to-morrow.

FIFTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, March 19, 1881. }

Senate met pursuant to adjournment; President pro tem. in the chair.

Roll called; quorum present.

Prayer by the Chaplain.

On motion of Senator Buchanan of Wood, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 19, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate substitute for House bill No. 566, "An act making appropriations for deficiencies, beginning March 1, 1879, and ending February 28, 1881, and for previous years," and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senator Lair, chairman of Committee on Private Land Claims, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 18, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Private Land Claims, to whom was referred the memorial of the heirs of Anson Jones, deceased, have had the same under consideration, and have heard the testimony offered in support thereof. It appears from the evidence that on the twenty-ninth of August, 1845, a letter patent was issued by the Republic of Texas, to John Elkins, for twenty-six labors of land, then in Milam but now in Lampasas county. That afterwards said Elkins, in pursuance of a prior agreement, conveyed to Anson Jones, by deed, one half of said twenty-six labors by specified metes and bounds. It was satisfactorily shown to your committee that this deed once existed, and had been recorded in Milam county, and that the records of that county, and of Lampasas county, have been destroyed by fires, which consumed the court houses of said counties, and the failure of the claimants to produce the original deed was satisfactorily accounted for, said deed having been lost; but it was fully and clearly proven by the testimony of Judge A. S. Walker and Maj. John A. Green, who appeared before your committee, that said deed once existed, and that it conveyed from John Elkins to Anson Jones one half of said grant by specified metes and bounds. It further appears that the survey of twenty-six labors was afterwards run out by a competent and reliable surveyor, under an order of survey made by the District Court of Lampasas county, in a suit by the legal representative of Anson Jones, then deceased, against certain persons claiming the half which had been conveyed to Anson Jones, and that it was found to contain only thirteen labors of land, or something less, and that said thirteen labors were those retained by Elkins, and that the half which had been embraced in the conveyance from Elkins to Anson Jones, had never in fact been located, but was wholly lost to the heirs of said Jones, and that to that extent the certificate issued to Elkins remains unlocated.

It is also shown that notice of the intention to apply for the passage of a special law authorizing the issuance to the petitioners of a certificate for said unlocated balance, has been given as required by law.

I am instructed by the committee to report said memorial back to the Senate with the recommendation that it be granted; and also to report the accompanying bill, granting the relief asked, with the recommendation that it do pass.

LAIR, Chairman.

Bill read first time.

Senator Buchanan of Wood introduced a bill entitled "An act to amend article 168 of the Revised Civil Statutes of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Lightfoot introduced a bill entitled "An act to amend 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed March 17, 1879, by adding thereto article 1215a." Referred to Judiciary Committee No. 1.

Senator Hightower introduced a bill entitled "An act to amend sections 1 and 2, of chapter 35, of an act passed at the special session, A. D. 1879, of the Sixteenth Legislature of Texas, approved July 9, 1879, relating to the auditing of claims against the State by the Comptroller of Public Accounts." Referred to Committee on Finance.

Senator Wynne introduced a bill entitled "An act to amend article 3466, title 69, chapter 1, of the Revised Civil Statutes of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Stubbs moved to call up his motion to reconsider the vote adopting the report of the free conference committee on the differences between the two houses on House bill No. 482, "An act to amend articles 4662 and 4664 of chapter 1, title 95, of the Revised Civil Statutes, adopted February 28, 1879."

Senator Homan moved to table the motion to reconsider, and moved a call of the Senate on the motion to table. Call sustained.

Roll called. Absent, Senators Burges and Martin of Cooke.

Senator Homan moved to excuse the absent Senators, who were reported sick.

Senator Houston moved to suspend the call. Withdrawn, and Senator Homan's motion to excuse the absent Senators was adopted by the following vote:

YEAS—25.

Buchanan of Grimes	Hightower,	Powers,
Buchanan of Wood,	Homan,	Rainey,
Burton,	Houston,	Ross,
Cooper,	Lair,	Stubbs,
Davenport,	Lane,	Swain,
Duncan,	Lightfoot,	Terrell,
Gooch,	Martin of Navarro,	Weathered,
Harris,	Patton,	Wynne.
Henderson,		

NAYS—none.

The motion to table was lost by the following vote:

YEAS—12.

Buchanan of Wood,	Henderson,	Martin of Navarro,
Davenport,	Hightower,	Patton,
Gooch,	Homan,	Powers,
Harris,	Lane,	Weathered.

NAYS—13.

Buchanan of Grimes	Lair,	Stewart,
Burton,	Lightfoot,	Swain,
Cooper,	Rainey,	Terrell,
Duncan,	Ross,	Wynne.
Houston,		

(Senator Buchanan of Wood in the chair.)

Senator Stubbs moved to postpone the motion to reconsider for half an hour, and offered a resolution requesting the House to return House bill No. 482.

Senator Homan raised the point of order that the resolution was out of order pending the motion to reconsider the bill asked to be returned. Sustained.